

1:03CV2606

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JUDGE MATIA

MAG. JUDGE VECCHIARI

03 CV 3900

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MILLENNIUM, L.P.,

Plaintiff,

v.

HYLAND SOFTWARE, INC.,

Defendant.

Case No.: _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff, Millennium, L.P., a limited partnership (hereinafter referred to as "Millennium"), demands a jury trial and complains against the defendant as follows:

THE PARTIES

1. Millennium is a limited partnership organized and existing under the laws of the Cayman Islands, with its principal place of business at P.O. Box 500, Georgetown, Grand Cayman, Cayman Islands.

2. Upon information and belief, Defendant Hyland Software, Inc. ("Hyland") is a corporation organized and existing under the laws of the State of Ohio, having a place of business at 28500 Clemens Road, Westlake, OH 44145.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States of America, Title 35 of the United States Code. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1338(a).

1 4. On information and belief, Defendant is doing business and committing
2 infringements in this judicial district and is subject to personal jurisdiction in this judicial district.

3 5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

4 **CLAIM FOR PATENT INFRINGEMENT**

5 6. Plaintiff, Millennium, repeats and incorporates herein the entirety of the allegations
6 contained in paragraphs 1 through 5 above.

7 7. On November 2, 1993, U.S. Patent No. 5,258,855 (hereinafter referred to as "the
8 '855 patent") was duly and legally issued to Millennium for an invention entitled "Information
9 Processing Methodology." A copy of the '855 patent is attached to this Complaint as Exhibit 1.
10

11 8. On November 29, 1994, U.S. Patent No. 5,369,508 (hereinafter referred to as "the
12 '508 patent") was duly and legally issued to Millennium for an invention entitled "Information
13 Processing Methodology." A copy of the '508 patent is attached to this Complaint as Exhibit 2.

14 9. On April 29, 1997, U.S. Patent No. 5,625,465 (hereinafter referred to as "the '465
15 patent") was duly and legally issued to Millennium for an invention entitled "Information
16 Processing Methodology." A copy of the '465 patent is attached to this Complaint as Exhibit 3.
17

18 10. On June 16, 1998, U.S. Patent No. 5,768,416 (hereinafter referred to as "the '416
19 patent") was duly and legally issued to Millennium for an invention entitled "Information
20 Processing Methodology." A copy of the '506 patent is attached to this Complaint as Exhibit 4.

21 11. On July 25, 2000, U.S. Patent No. 6,094,505 (hereinafter referred to as "the
22 Patents") was duly and legally issued to Millennium for an invention entitled "Information
23 Processing Methodology." A copy of the '505 patent is attached to this Complaint as Exhibit 5.

24 12. Millennium is the owner of all right, title and interest in and to the '855 patent, the
25 '508 patent, the '465 patent, the 506 patent and the '505 patent.
26
27
28

COUNT ONE

13. Plaintiff, Millennium, repeats and incorporates herein the entirety of the allegations contained in paragraphs 1 through 12 above.

14. Hyland has for a long time past and still is infringing, actively inducing the infringement of and contributorily infringing in this judicial district, the '855 patent by, among other things, importing, making, using, offering for sale, and/or selling computer hardware, software and systems as defined by the claims of the '855 patent without permission from Millennium and will continue to do so unless enjoined by this Court.

15. Plaintiff, Millennium, has been damaged by such infringing activities by the Defendant of the '855 patent and will be irreparably harmed unless such infringing activities are enjoined by this Court.

COUNT TWO

16. Plaintiff, Millennium, repeats and incorporates herein the entirety of the allegations contained in paragraphs 1 through 15 above.

17. Hyland has for a long time past and still is infringing, actively inducing the infringement of and contributorily infringing in this judicial district, the '508 patent by, among other things, importing, making, using, offering for sale, and/or selling computer hardware, software and systems as defined by the claims of the '508 patent without permission from Millennium and will continue to do so unless enjoined by this Court.

18. Plaintiff, Millennium, has been damaged by such infringing activities by the Defendant, of the '508 patent and will be irreparably harmed unless such infringing activities are enjoined by this Court.

COUNT THREE

19. Plaintiff, Millennium, repeats and incorporates herein the entirety of the allegations contained in paragraphs 1 through 18 above.

1 20. Hyland has for a long time past and still is infringing, actively inducing the
2 infringement of and contributorily infringing in this judicial district, the '465 patent by, among
3 other things, importing, making, using, offering for sale, and/or selling computer hardware,
4 software and systems as defined by the claims of the '465 patent without permission from
5 Millennium and will continue to do so unless enjoined by this Court.

6 21. Plaintiff, Millennium, has been damaged by such infringing activities by the
7 Defendant of the '465 patent and will be irreparably harmed unless such infringing activities are
8 enjoined by this Court.

9
10 **COUNT FOUR**

11 22. Plaintiff, Millennium, repeats and incorporates herein the entirety of the allegations
12 contained in paragraphs 1 through 21 above.

13 23. Hyland has for a long time past and still is infringing, actively inducing the
14 infringement of and contributorily infringing in this judicial district, the '506 patent by, among
15 other things, importing, making, using, offering for sale, and/or selling computer hardware,
16 software and systems as defined by the claims of the '506 patent without permission from
17 Millennium and will continue to do so unless enjoined by this Court.

18 24. Plaintiff, Millennium, has been damaged by such infringing activities by the
19 Defendant, of the '506 patent and will be irreparably harmed unless such infringing activities are
20 enjoined by this Court.

21
22 **COUNT FIVE**

23 25. Plaintiff, Millennium, repeats and incorporates herein the entirety of the allegations
24 contained in paragraphs 1 through 24 above.

25 26. Hyland has for a long time past and still is infringing, actively inducing the
26 infringement of and contributorily infringing in this judicial district, the '505 patent by, among
27 other things, importing, making, using, offering for sale, and/or selling computer hardware,
28

1 software and systems as defined by the claims of the '505 patent without permission from
2 Millennium and will continue to do so unless enjoined by this Court.

3 27. Plaintiff, Millennium, has been damaged by such infringing activities by the
4 Defendant, of the '505 patent and will be irreparably harmed unless such infringing activities are
5 enjoined by this Court.

6
7 **COUNT SIX**

8 28. Plaintiff, Millennium, repeats and incorporates herein the entirety of the allegations
9 contained in paragraphs 1 through 27 above.

10 29. Hyland's infringement has been willful and deliberate, justifying the assessment of
11 treble damages pursuant to 35 U.S.C. §284 and attorneys' fees pursuant to 35 U.S.C. §285 against
12 that entity.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, THE Plaintiff, Millennium prays for judgment against the Defendant
15 Hyland on all the counts and for the following relief:

- 16 A. Declaration that the Plaintiff is the owner of the '855 patent, and that the Plaintiff has
17 the right to sue and to recover for infringement thereof;
- 18 B. Declaration that the '855 patent is valid and enforceable;
- 19 C. Declaration that the Defendant has infringed, actively induced infringement of, and
20 contributorily infringed '855 patent;
- 21 D. Declaration that the Plaintiff is the owner of the '508 patent, and that the Plaintiff has
22 the right to sue and to recover for infringement thereof;
- 23 E. Declaration that the '508 patent is valid and enforceable;
- 24 F. Declaration that the Defendant has infringed, actively induced infringement of, and
25 contributorily infringed '508 patent;
- 26 G. Declaration that the Plaintiff is the owner of the '465 patent, and that the Plaintiff has
27 the right to sue and to recover for infringement thereof;
- 28 H. Declaration that the '465 patent is valid and enforceable;

- 1 I. Declaration that the Defendant has infringed, actively induced infringement of, and
2 contributorily infringed '465 patent;
- 3 J. Declaration that the Plaintiff is the owner of the '506 patent, and that the Plaintiff has
4 the right to sue and to recover for infringement thereof;
- 5 K. Declaration that the '506 patent is valid and enforceable;
- 6 L. Declaration that the Defendant has infringed, actively induced infringement of, and
7 contributorily infringed '506 patent;
- 8 M. Declaration that the Plaintiff is the owner of the '505 patent, and that the Plaintiff has
9 the right to sue and to recover for infringement thereof;
- 10 N. Declaration that the '505 patent is valid and enforceable;
- 11 O. Declaration that the Defendant has infringed, actively induced infringement of, and
12 contributorily infringed '505 patent;
- 13 P. A preliminary and permanent injunction against the Defendant, each of its officers,
14 agents, servants, employees, and attorneys, all parent and subsidiary corporations,
15 their assigns and successors in interest, and those persons acting in active concert or
16 participation with them, including distributors and customers, enjoining them from
17 continuing acts of infringement, active inducement of infringement, and contributory
18 infringement of Millennium's '855, '508, '465, '506 and '505 patents;
- 19 Q. An accounting for damages under 35 U.S.C. §284 for infringement of Millennium's
20 '855, '508, '465, '506 and '505 patents by the Defendant and the award of damages
21 so ascertained to the Plaintiff, Millennium, together with interest as provided by law;
- 22 R. A judgment that the Defendant is a willful infringer and an award of treble damages
23 to the Plaintiff, Millennium, pursuant to 35 U.S.C. §284 against the Defendant,
24 Hyland;
- 25 S. Award of reasonable attorney's fees to the Plaintiff, Millennium, pursuant to 35
26 U.S.C. §285;
- 27 T. Award of Millennium's costs and expenses; and
28

1 U. Such other and further relief as this Court may deem proper, just and equitable.

2
3 By: Jean-Marc Zimmerman
4 Jean-Marc Zimmerman (JZ 7743)
5 Zimmerman & Levi, LLP
6 Attorneys for Plaintiff
7 Millennium, L.P.

8 Dated: May 21, 2003

9 **DEMAND FOR JURY TRIAL**

10 The Plaintiff, Millennium, demands a trial by jury of all issues properly triable by jury in
11 this action.

12 By: Jean-Marc Zimmerman
13 Jean-Marc Zimmerman (JZ 7743)
14 Zimmerman & Levi, LLP
15 Attorneys for Plaintiff
16 Millennium, L.P.

17 Dated: May 21, 2003